THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 21393 OF 2005

DATED: 30-09-2005

Between

C. Sudhakar Rao.

..... PETITIONER

And

The Cadre Authority for Personnel for
Cooperative Central Banks/Apex Bank,
Rep., by the Member Secretary,
The Andhra Pradesh State Cooperative
Bank Ltd., Post Box No. 142,
Hyderabad 500 001.

..... RESPONDENT

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THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY

WRIT PETITION NO. 21393 OF 2005

ORDER:

The petitioner retired as Deputy General Manager of the Andhra Pradesh State Cooperative Bank Limited on 30-04-2004. He was issued a charge memorandum dated 24-05-2005 whereunder a charge was framed and he was required to show cause as to why necessary action shall not be taken for the acts and omissions indicated therein. The petitioner submitted his explanation on 08-06-2005. On a consideration of the same, the respondent appointed an Enquiry Officer through his proceedings dated 03-09-2005. The petitioner challenges the same in this writ petition.

Sri Siva, learned counsel for the petitioner submits that initiation of disciplinary proceedings against the petitioner and appointment of an Enquiry Officer are without jurisdiction. He contends that it was for the first time the relevant provisions were modified on 24-09-2001 enabling the respondent to proceed against retired employees also, and that the same has been amended on 28-04-2005 extending such period to four years subject to certain conditions. He contends that it is only in relation to the lapses that have taken place four years prior to the initiation of the proceedings that can constitute the subject matter of enquiry against the retired

employees and not otherwise. Learned counsel points out that a bare perusal of the charge memorandum discloses that the incident in relation to which proceedings were initiated is of the year 1999 and on the face of it, the proceedings cannot be sustained.

Learned Standing Counsel for the respondent
Mr. Ramakrishna on the other hand submits that the petitioner has already responded to the charge memo and the truth or otherwise of the allegation against him can be known only when the Enquiry Officer submits his report. He contends that the question as to whether the acts and omissions alleged against the petitioner have taken place within four years or beyond that is a pure question of fact and it cannot constitute the subject matter of adjudication in a writ and that too at this stage.

The petitioner challenges the very competence of the respondent to initiate the disciplinary proceedings against him as well as in proceeding further with the same. Two contentions are urged on his behalf. The first is that amendment to the relevant service regulations is prospective in operation and would apply to those employees who retired subsequent to that date and not to the petitioner who retired earlier to that date. The second contention is about the period to which the acts and omissions on the part of the petitioner can be traced.

So far as the first contention is concerned, it is too early for this Court to adjudicate upon this. The proceedings are only at the stage of issuance of charge memo and appointment of an Enquiry Officer. A detailed examination of the purport of the relevant rules needs to be undertaken to deal with the same. It is too early to go into that aspect.

So far as the second contention is concerned, a definite finding needs to be recorded as to when the lapses alleged against the petitioner have taken place. Such a finding would have its own bearing in the context of the relevant rule which mandates that the enquiry against the retired employees can be only with reference to the incidents that have taken place four years prior to initiation of the proceedings.

It is true that a reference is made to a transaction of the year 1999. If the same is taken on its face value, it cannot constitute the subject matter of enquiry initiated in the year 2005. However, whether any subsequent facts have ensued or whether the transaction is spilt over to a further time bringing the entire transaction within the scope of the relevant rules needs to be considered both by the Enquiry Officer as well as by the disciplinary authority. This Court cannot interfere at this stage.

For the foregoing reasons, the writ petition is disposed of leaving it open to the petitioner to raise all the objections as to facts and law before the Enquiry Officer. The Enquiry Officer, and depending upon the report that ensues, the Disciplinary Authority, shall deal, specifically, with the question as to whether the acts and omissions alleged against the petitioner, have taken place within four years before the inception of the instant proceedings, or earlier thereto.

(L. Narasimha Reddy, J)

30..09..2005

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